

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEVIN LAMAR FRAZIER,

Plaintiff,

No. CIV S-05-0774 MCE JFM P

vs.

SPENCER ROWELL, et al.,

Defendants.

ORDER

Plaintiff is a former state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. In the complaint,¹ plaintiff claims that defendant Spencer Rowell² violated his constitutional rights through the use of excessive force. On October 20, 2006, defendant Rowell filed a motion for summary judgment. On November 30, 2006, plaintiff filed an opposition to the motion, and on December 11, 2006, defendant Rowell filed a reply brief.

¹ This action is proceeding on plaintiff's original complaint, filed April 20, 2005. Defendant Rowell answered the complaint on April 24, 2006. On December 1, 2006, plaintiff submitted an amended complaint. In the amended complaint, plaintiff apparently attempts to amend some of the details in the claims on which this action is proceeding. Plaintiff neither sought nor was granted leave to file this amended complaint. Cf. Fed. R. Civ. P. 15. It shall, therefore, be disregarded.

² Plaintiff names three defendants in the complaint, filed April 20, 2005. This action is proceeding solely on plaintiff's claims against defendant Rowell. See Order filed June 6, 2005.

1 On February 15, 2007, plaintiff filed a document styled "Motion to Compel and
2 Stay Summary Judgment Orders." By this document, plaintiff seeks an order requiring defendant
3 to produce to him the Sacramento County Sheriff's Department case file on the incident at bar.
4 By order filed June 5, 2007, defendant Rowell was directed to submit to this court for in camera
5 review the Sacramento County Sheriff's Department case file provided to his expert witness by
6 delivering a copy of said file to the chambers of the undersigned. Defendant Rowell timely
7 complied with said order.

8 The court has reviewed in camera the documents submitted by defendant Rowell.
9 Good cause appearing, defendant Rowell will be granted a period of ten days in which to produce
10 the documents to plaintiff or to show cause why he should not be required to do so. Defendant's
11 motion for summary judgment will be denied without prejudice to its renewal, as appropriate, at
12 a subsequent stage of these proceedings.

13 In accordance with the above, IT IS HEREBY ORDERED that:

14 1. Within ten days from the date of this order defendant Rowell shall produce to
15 plaintiff the Sacramento County Sheriff's Department case file produced to this court for in
16 camera review or show cause in writing why he should not be required to do so; and

17 2. Defendant Rowell's October 20, 2006 motion for summary judgment is denied
18 without prejudice to its renewal, as appropriate, at a subsequent stage of these proceedings.

19 DATED: August 15, 2007.

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22 UNITED STATES MAGISTRATE JUDGE